IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 1405 of 2004

THE NEW INDIA ASSURANCE CO LTD.
V/S
JEEVRAM &ANR

Mr. JAGDISH VYAS, for the appellant / petitioner

Date of Order : 15.12.2004

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

By the impugned award, the Workmen's Compensation Commissioner has assessed the compensation after considering the income of the victim by appreciating the evidence available on record.

The contention of the learned counsel for the appellant is that the Commissioner was in error in arriving at the figure of income, inasmuch as, certain amounts included in the income, were not permissible to be included. Suffice it to say that this objection relating to the quantum of compensation is not open to the insurer in absence of anything being there to show that the insurer was given permission under Section 170 of the Motor Vehicle Act. In that view of the matter, I am not inclined to entertain this contention.

The next contention raised is that the appellant could not be held liable for interest and penalty. Suffice it to say that it will be open to the appellant to seek his remedies for recovering back of his amounts from the insured in accordance with law.

The appeal is, therefore, dismissed summarily.

(N P GUPTA),J.

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